

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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YORDY ARAGONEZ,

Plaintiff,

ORDER

-against-

16 CV 1794 (ARR) (CLP)

CITY OF NEW YORK, POLICE OFFICER
KAREEM PHILLIPS, Shield No. 02555,
JOHN DOE 1, and JOHN AND JANE DOE 2
through 10, individually and in their official
capacities,

Defendants.

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POLLAK, United States Magistrate Judge:

On April 14, 2016, plaintiff Yordy Aragonez (“plaintiff”) filed this Section 1983 civil rights action against the City of New York, Police Officer Kareem Phillips, Shield No. 02555 (“Phillips”), John Doe 1, and John and Jane Doe 2 through 10, individually and in their official capacities (collectively, “defendants”), asserting claims for unreasonable force, state law assault and battery, negligence, negligent hiring/training/retention, intentional infliction of emotional distress, negligent infliction of emotional distress, and failure to intervene. On December 20, 2016, defendant Phillips filed an Answer to the Complaint and asserted cross-claims against defendant City of New York.

During a conference held on March 3, 2017, plaintiff indicated his intention to seek leave to file an Amended Complaint. The Court directed plaintiff to provide defendants with a Proposed Amended Complaint by March 17, 2017, and directed defendants to indicate whether they consented to plaintiff filing the Proposed Amended Complaint by March 24, 2017.

On March 24, 2017, plaintiff filed a letter with the Court explaining that defendant

Phillips consented to plaintiff filing the Proposed Amended Complaint, but that the City of New York did not consent. (3/24/17 Pl.'s Ltr.¹ at 1). Accordingly, the Court set the following briefing schedule on a motion to amend the Complaint: 1) plaintiff was directed to file his motion papers by April 10, 2017; 2) the City of New York's opposition to plaintiff's motion was due by April 24, 2017; and 3) plaintiff's reply, if any, was to be filed by May 1, 2017. (3/27/17 Electronic Order²).

On April 10, 2017, plaintiff filed his Motion to Amend the Complaint. Also on April 10, 2017, Pernell M. Telfort filed a motion to substitute the City of New York's prior attorney as counsel of record in this case. That motion was granted on April 11, 2017. Mr. Telfort has received notifications of all filings in this case since that date.

Defendant City of New York failed to file its opposition to plaintiff's Motion to Amend the Complaint by April 24, 2017. On April 26, 2017, plaintiff filed a letter requesting that the Court deem his Motion to Amend the Complaint unopposed and grant the Motion. (4/26/17 Pl.'s Ltr.³ at 1). On April 27, 2017, the Court issued an Order providing that "[u]nless defendants contact this Court by 4/27/17 to object to the amendment, the Court will deem the motion to amend unopposed." (Order⁴ at 1 (emphasis in original)).

To date, the City of New York has not filed any opposition to plaintiff's Motion to

¹Citations to "3/24/17 Pl.'s Ltr." refer to plaintiff's letter, filed on March 24, 2017.

²Citations to "3/27/17 Electronic Order" refer to this Court's Electronic Order, dated March 27, 2017.

³Citations to "4/26/17 Pl.'s Ltr." refer to plaintiff's letter, filed on April 26, 2017.

⁴Citations to "Order" refer to the Court's endorsed letter Order, filed on April 27, 2017.

Amend the Complaint, nor has it contacted the Court to otherwise object to the amendment or request an extension. Accordingly, the Court deems plaintiff's Motion to Amend the Complaint unopposed, and grants plaintiff's Motion to Amend the Complaint.

Plaintiff is directed to file the Amended Complaint by May 12, 2017. The Status Conference previously set for May 8, 2017 is adjourned to **June 23, 2017 at 11:00 a.m.**

The Clerk is directed to send copies of this Order to the parties either electronically through the Electronic Case Filing (ECF) system or by mail.

SO ORDERED.

Dated: Brooklyn, New York
May 3, 2017

/s/ Cheryl L. Pollak

Cheryl L. Pollak
United States Magistrate Judge
Eastern District of New York